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Attorney for GMAC MORTGAGE CORPORATION

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION

IN RE:	§ CASE NO. 02-70068-HDH-13
	§
RICHARD GONZALEZ NAVARRO and	§
IRMA VIRGENMINA NAVARRO,	§
Debtor	§ CHAPTER 13
	§
GMAC MORTGAGE CORPORATION,	§
Movant	§ HEARING DATE: 09/28/2005
	§
v.	§ TIME: 01:30 PM
	§
RICHARD GONZALEZ NAVARRO and	§
IRMA VIRGENMINA NAVARRO;	§
and WALTER O'CHESKEY,	§
Trustee	§
Respondents	§ JUDGE HARLIN D. HALE

**MOTION OF GMAC MORTGAGE CORPORATION  
FOR RELIEF FROM STAY AND WAIVER OF THIRTY DAY REQUIREMENT  
PURSUANT TO § 362(e)**

**NOTICE - RESPONSE REQUIRED**

**PURSUANT TO LOCAL BANKRUPTCY RULE 4001 (b), A RESPONSE IS REQUIRED. THE TRUSTEE, IF ONE HAS BEEN APPOINTED, OR THE DEBTOR SHALL FILE A RESPONSE TO ANY MOTION FOR RELIEF FROM THE AUTOMATIC STAY WITHIN TWELVE (12) DAYS FROM THE SERVICE OF THE MOTION. THE DEBTOR'S RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED. IF THE DEBTOR DOES NOT FILE A RESPONSE AS REQUIRED, THE ALLEGATIONS IN THE CREDITOR'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY SHALL BE DEEMED ADMITTED, UNLESS GOOD CAUSE IS SHOWN WHY THESE ALLEGATIONS SHOULD NOT BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.**

**File a written response with the court at:**

**CLERK, U.S. BANKRUPTCY COURT  
EARLE CABELL U.S. COURTHOUSE, 1100 COMMERCE STREET, Room  
1254,  
DALLAS, TX 75242-1003**

**UNDER BANKRUPTCY RULE 9006 (e) SERVICE BY MAIL IS  
COMPLETE UPON MAILING; UNDER BANKRUPTCY RULE 9006 (f),  
THREE (3) DAYS ARE ADDED TO THE PERIOD FOR FILING A  
RESPONSE WHEN NOTICE OF THE PERIOD IS SERVED BY MAIL.**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Movant, GMAC MORTGAGE CORPORATION, by and through the undersigned attorney, and moves the Court as follows:

1. This Motion is brought pursuant to 11 U.S.C. Section 362(d) and in accordance with Rule 9014 of the Bankruptcy Rules.

2. On or about January 18, 2002, Debtors (hereinafter "Debtor") filed a petition for an order of relief under Chapter 13 of the Bankruptcy Code, 11 U.S.C.

3. At the time of filing the Chapter 13 petition, Movant held a Note executed on April 7, 1994, in the original amount of EIGHTEEN THOUSAND FOUR HUNDRED FIFTY DOLLARS AND ZERO CENTS (\$18,450.00) with interest thereon at the rate of 7.000% per annum.

4. The indebtedness is secured by a Deed of Trust dated April 7, 1994.

REAL PROPERTY AND IMPROVEMENTS MORE COMMONLY KNOWN  
AS 1625 BEST BLVD., WICHITA FALLS, WICHITA COUNTY, TEXAS  
76308.

5. Debtor has failed to maintain current the post-petition payments due under the Note and is presently in arrears for 4 payments through and including the September 1, 2005

payment.

6. Further cause may exist to terminate the automatic stay if the Debtor fail to provide proof of adequate insurance and payment of applicable taxes by Debtor as required by the Note and Deed of Trust. Movant hereby demands proof of insurance and payment of applicable taxes by Debtor. Movant reserves the right to further assert that Debtor has failed to pay taxes or insurance based on the response of Debtor.

7. In accordance with the terms of the Note and Deed of Trust, Movant would allege that it is entitled to reasonable post-petition attorneys fees, including, but not limited to, fees, if any, for the preparation and filing of a proof of claim and fees and costs for the filing of this Motion for Relief from Stay.

8. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its Note and Deed of Trust.

9. Debtor has failed to provide adequate protection to Movant which constitutes cause to terminate the automatic stay of 11 U.S.C. §362(a).

10. The outstanding indebtedness to Movant is \$6,147.67 principal plus accrued interest, late charges, attorneys fees and costs as provided in the Note and Deed of Trust.

11. Movant reserves the right to assert an 11 U.S.C. § 362(d)(2) Cause of Action, if appropriate, at the hearing on Movant's Motion for Relief.

12. The provision of Rule 4001 (a) (3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

WHEREFORE, Movant prays that this Court enter an order, after notice and hearing, terminating the automatic stay as to Movant; alternatively, Movant be made whole by having all post-petition payments brought current. Movant further prays that the Court waive the

provision of Rule 4001 (a) (3) and that GMAC MORTGAGE CORPORATION be permitted to immediately enforce and implement any order granting relief from the automatic stay; that Movant be awarded its reasonable post-petition attorneys fees and expenses for this Motion; and, that Movant be granted such other and further relief as is just.

Respectfully submitted,

BARRETT BURKE WILSON  
CASTLE DAFFIN & FRAPPIER, L.L.P.

BY: /s/ FELICIA SANOV 9/9/2005  
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Houston, Texas 77056  
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ATTORNEY FOR MOVANT

**CERTIFICATE OF CONFERENCE**

Barrett Burke Wilson Castle Daffin & Frappier, L.L.P., represents the creditor on the foregoing Motion. The undersigned, an attorney, employed by Barrett Burke Wilson Castle Daffin & Frappier, L.L.P., states that prior to filing the foregoing motion he/she did the following:

Made a good faith effort to negotiate a settlement of the dispute with Debtor's Counsel.

Date of Conference Call: September 9, 2005 at 10:12 a.m.

BY: /s/ FELICIA SANOV  
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ATTORNEY FOR MOVANT

**CERTIFICATE OF SERVICE**

I hereby certify that on September 09, 2005, a true and correct copy of the foregoing Motion for Relief from Stay was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

BARRETT BURKE WILSON  
CASTLE DAFFIN & FRAPPIER, L.L.P.

\_\_\_\_\_  
/s/ FELICIA SANOV

9/9/2005

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DEBTORS:

RICHARD GONZALEZ NAVARRO  
1645 HWY 258 EAST  
WICHITA FALLS, TX 76310

IRMA VIRGENMINA NAVARRO  
1645 HWY 258 EAST  
WICHITA FALLS, TX 76310

TRUSTEE:

WALTER O'CHESKEY  
6308 IOLA AVE.  
SUITE 100  
LUBBOCK, TX 79424

US TRUSTEE:

1100 COMMERCE STREET, ROOM 976  
EARLE CABELL FEDERAL BLDG  
DALLAS, TX 75242

DEBTOR'S ATTORNEY:

MONTE J WHITE  
1106 BROOKE AVENUE  
WHICHITA FALLS, TX 76301

PARTIES REQUESTING NOTICE:

BARBARA K. HAMILTON  
PO BOX 35480  
NEWARK, NJ 07193